

§ 326.7

supported by all the facts and circumstances and is in the best interest of the United States.

§ 326.7 Litigation.

(a) If a court suit of a P&I nature is filed which arises out of the activities of the Agent under its Agreement, wherein the Agent is named as the party defendant or one of the parties' defendant irrespective of whether the risk is covered by P&I insurance, the Agent shall immediately forward copies of the pleading and all other related legal documents, by first class mail, to the Chief Counsel, Maritime Administration, Department of Transportation, Washington, DC 20590, and to the Attorney General, Attn: Civil Division, Torts Branch, Department of Justice, Washington, DC 20530. No agent or authorized subagent shall incur any legal expenses in connection with any claim of a P&I nature, unless approved in advance by MARAD, and by the underwriter, where applicable. However, the Agent may incur legal expenses if the mission of the vessel will be frustrated or impeded and/or time will not permit such prior approval.

(b) In the event of any attachment or seizure of a vessel, whether or not the risk is of a P&I nature, the Agent shall immediately notify the Chief Counsel, Maritime Administration, Washington, DC 20590, Tel. (202) 366-05711, by telegram, radio, or cable.

PART 327—SEAMEN'S CLAIMS; ADMINISTRATIVE ACTION AND LITIGATION

Subpart A—Clarification Act Claims: Seamen's Claims; Administrative Action and Litigation

Sec.

- 327.1 Purpose.
- 327.2 Statutory provisions.
- 327.3 Required claims submission.
- 327.4 Claim requirements.
- 327.5 Filing claims.
- 327.6 Notice of allowance or disallowance.
- 327.7 Administrative disallowance presumption.

46 CFR Ch. II (10–1–14 Edition)

327.8 Court action.

Subpart B—Admiralty Extension Act Claims; Administrative Action and Litigation

- 327.20 Admiralty Jurisdiction Extension Claims: Required claims.
- 327.21 Definitions.
- 327.22 Who may present claims.
- 327.23 Insurance and other subrogated claims.
- 327.24 Actions by claimant.
- 327.25 Contents of a claim.
- 327.26 Evidence supporting a claim.
- 327.27 Proof of amount claimed for personal injury.
- 327.28 Proof of amount claimed for loss of, or damage to, property.
- 327.29 Effect of other payments to claimant.
- 327.30 Statute of limitations for AEA and claim requirements.
- 327.31 Statute of limitations not tolled by administrative consideration of claims.
- 327.32 Notice of claim acceptance or denial.
- 327.33 Claim denial presumption.
- 327.34 Court action.

Subpart C—Other Admiralty Claims

- 327.40 Other Admiralty claims.
- 327.41 Definitions.
- 327.42 Who may present claims.
- 327.43 Insurance and other subrogated claims.
- 327.44 Actions by claimant.
- 327.45 Contents of a claim.
- 327.46 Evidence supporting a claim.
- 327.47 Proof of amount claimed for personal injury.
- 327.48 Proof of amount claimed for loss of, or damage to, property.
- 327.49 Effect of other payments to claimant.
- 327.50 Statute of limitations for other admiralty claims and claim requirements.
- 327.51 Statute of limitations not tolled by administrative consideration of claims.
- 327.52 Notice of claim acceptance or denial.

AUTHORITY: 46 U.S.C. Chapters 301–309.

SOURCE: 77 FR 65633, Oct. 30, 2012, unless otherwise noted.

Subpart A—Clarification Act Claims: Seamen's Claims; Administrative Action and Litigation

§ 327.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and

Maritime Administration, DOT

§ 327.4

members of crews (hereafter referred to as “seamen”) employed on vessels as employees of the United States through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor.

§ 327.2 Statutory provisions.

These regulations are enacted to implement the administrative claims procedures set forth in 50 U.S.C. App. 1291(a).

§ 327.3 Required claims submission.

All claims specified in 50 U.S.C. App. 1291(a) shall be submitted for administrative consideration, as provided in §§ 327.4 and 327.5, prior to institution of court action thereon.

§ 327.4 Claim requirements.

(a) *Form.* The claim may be in any form and shall be

- (1) In writing,
- (2) Designated as a claim,
- (3) Disclose that the object sought is the administrative allowance of the claim,
- (4) Comply with the requirements of this part, and
- (5) Filed as provided in § 327.5.
- (6) The claim must be signed or attested to by the claimant. The statements made in the claim should be made to the best of the knowledge of the claimant and are subject to the provision of 18 U.S.C. 287 and 1001 and all other penalty provisions for making false, fictitious, or fraudulent claims, statements or entries, or falsifying, concealing, or covering up a material fact in any matter within the jurisdiction of any department or agency of the United States. Any lawsuits filed contrary to the provisions of section 5 of the Suits in Admiralty Act, as amended by Public Law 877, 81st Congress (64 Stat. 1112; 46 U.S.C. 30901 *et seq.*), shall not be in compliance with the requirements of this part.

(b) *Contents.* Each claim shall include the following information:

- (1) With respect to the seaman:
 - (i) Name;
 - (ii) Mailing address;
 - (iii) Date of birth;
 - (iv) Legal residence address;
 - (v) Place of birth; and

(vi) Merchant mariner license or document number and social security number.

(2) With respect to the basis for the claim:

(i) Name of vessel on which the seaman was serving when the incident occurred that is the basis for the claim;

(ii) Place where the incident occurred;

(iii) Time of incident—year, month and day, and the precise time of day, to the minute, where possible;

(iv) Narrative of the facts and circumstances surrounding the incident, including a statement explaining why the United States is liable for this claim;

(v) Pictures, video recordings and other physical evidence related to the case and

(vi) The names, addresses, and telephone numbers, if available, of others who can supply factual information about the incident and its consequences.

(3) A sum certain dollar amount of claim, which includes a total for all amounts sought. The claim shall explain the amounts sought for:

(i) Past loss of earnings or earning capacity;

(ii) Future loss of earnings or earning capacity;

(iii) Medical expenses paid out of pocket;

(iv) Pain and suffering; and

(v) Any other loss arising out of the incident (describe).

(4) All medical and clinical records of physicians and hospitals related to a seaman's claim for injury, illness, or death shall be attached. If the claimant does not have a copy of each record, the claimant shall identify every physician and hospital having records relating to the seaman and shall provide written authorization for MarAd to obtain all such records. The claim shall also include the number of days the seaman worked as a merchant mariner and the earnings received for the current calendar year, as well as for the two preceding calendar years.

(5) If the claim does not involve a seaman's death, the following information shall be submitted with the claim: